

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

THOMAS RANDAL HARGROVE and
MICHAEL STEVEN NOVAK,

Plaintiffs,

v.

WASHINGTON STATE
DEPARTMENT OF CORRECTIONS,
TODD FREDRICKSON and LT. KEVIN
LORESCH,

Defendants.

No. C10-0363 RBL/KLS

ORDER GRANTING MOTION TO STAY
DISCOVERY

Pending before the Court is Defendants' Motion for Summary Judgment and To Stay Discovery Pending Outcome. ECF No. 18. In this Order, the Court addresses Defendants' motion to stay discovery. The motion for summary judgment is the subject of a separate Report and Recommendation.

BACKGROUND

In their motion for summary judgment, Defendants argue that Plaintiffs' claims should be dismissed because Plaintiffs failed to exhaust administrative remedies, Plaintiffs have failed to state a claim for relief against the Washington State Department of Corrections, Plaintiffs have failed to show a constitutional violation, and Defendants are entitled to qualified immunity. ECF No. 18, p. 2. Under separate Report and Recommendation, the undersigned recommends that Plaintiffs' claims should be dismissed without prejudice because they have failed to exhaust their available administrative remedies.

DISCUSSION

The court has broad discretionary powers to control discovery. *Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). Upon showing of good cause, the court may deny or limit discovery. Fed. R. Civ. P. 26(c). A court may relieve a party of the burdens of discovery while a dispositive motion is pending. *DiMartini v. Ferrin*, 889 F.2d 922 (9th Cir. 1989), amended at 906 F.2d 465 (9th Cir. 1990) *Rae v. Union Bank*, 725 F.2d 478 (9th Cir. 1984).

As noted above, the undersigned is recommending to the District Court that Plaintiffs' claims be dismissed without prejudice because they failed to avail themselves of their administrative remedies. Defendants should not face the burden and expense of responding to discovery as to claims that will be dismissed if the District Court adopts the Report and Recommendation.

Accordingly, it is **ORDERED**:

(1) Defendant's motion to stay discovery pending resolution of the motion for summary judgment (ECF NO. 18) is **GRANTED**.

(2) All discovery is **STAYED** pending further order of this Court.

(3) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.

DATED this 2nd day of May, 2011.


Karen L. Strombom
United States Magistrate Judge